# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
# BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

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| In re Application of: | ) |
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| Akira NONAKA | ) Group Art Unit: 3621 |
| | ) |
| Application No.: 09/803,396 | ) Examiner: Kucab, Jamie R. |
| | ) |
| Filed: March 9, 2001 | ) Confirmation No.: 8707 |
| | ) |
| For: DATA DISTRIBUTION SYSTEM AND METHOD OF SAME, DATA PROCESSING APPARATUS AND METHOD OF SAME, AND DATA RECORDING MEDIUM | ) ) ) ) ) ) |

**Attention: Mail Stop Appeal Brief-Patents**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

## RESPONSE TO NOTIFICATION OF
## NON-COMPLIANT APPEAL BRIEF (37 C.F.R. § 41.37(d))

In response to the Notification of Non-Compliant Appeal Brief (the "Notice")

mailed March 27, 2008, Appellant provides the attached paper providing a summary of

the claimed subject matter as required by 37 C.F.R. § 41.37(c)(1)(v). Per

MPEP § 1205.03, the attached paper is to be used as a replacement section, entitled

"Summary of Claimed Subject Matter," to replace the section having the same title in the

Appeal Brief filed on December 26, 2007. In particular, the attached paper provides a

concise explanation of the subject matter defined in each of the independent claims

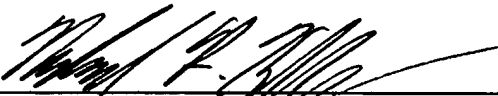involved in the appeal and the structure corresponding to each means plus function element in the claims.

Accordingly, Appellant submits that the attached paper, a replacement section for the Appeal Brief filed on December 26, 2007, is fully responsive to the Notice and corrects any deficiencies in the Appeal Brief. Appellant respectfully requests that the Office accept the attached paper for consideration with the Appeal Brief.
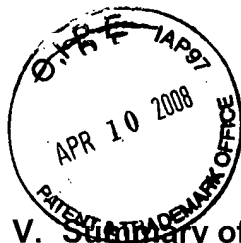
Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: April 10, 2008            By: _____
                                      Michael R. Kelly
                                      Reg. No. 33,921

## V. Summary of Claimed Subject Matter (Replacement Section)

Independent claims 1, 26, and 31 recite a data distribution system and method and a data processing apparatus for recording and reproducing content data. The invention provides a system, method, and apparatus capable of suitably grasping an operating environment in a system where various types of apparatuses are connected. The system distributes data, controls copying of the data, controls charge processing, and controls profit distribution, for example.

Independent claim 1 is directed to a data distribution system. *See*, for example, specification at page 16, line 24 - page 17, line 7 and Fig. 1. The system includes a reproducing apparatus for reproducing content data distributed from a mounted recording medium. *See*, for example, specification at page 22, line 1 - page 24, line 13 and Fig. 1, ref. 400. The system includes a recording apparatus for recording said reproduced content data on a mounted recording medium. *See*, for example, specification at page 22, line 1 - page 24, line 13 and Fig. 1, ref. 400. The system also includes an examining means for examining usage space information of the content data recorded on the recording medium mounted in said reproducing apparatus, the recording medium mounted in said reproducing apparatus, said reproducing apparatus, the recording medium mounted in said recording apparatus, and said recording apparatus. *See*, for example, specification at page 30, line 5 - page 31, line 19 and Fig. 1, ref. 1. The structure corresponding to the examining means is EMD system 1. The system further includes a controlling means for controlling transfer of said content data from said recording medium mounted in said reproducing apparatus to said recording medium mounted in said recording apparatus based on the result of said examination.

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*See*, for example, specification at page 26, line 10 - page 30, line 2 and Fig. 1, ref. 400. The structure corresponding to the controlling means is CPU 510. The usage space information indicates system information of said recording apparatus and said reproducing apparatus, ownership right information of said content data, format information of said content data, and distributing profit information obtained by the distribution of said content data. *See*, for example, specification at page 31, line 20 - page 39, line 15. The examining means examines whether said content data is of a first type which is distributed in an encrypted state or of a second type which is distributed in an unencrypted state. *See*, for example, specification at page 31, line 24 - page 37, line 24 and Fig. 1, ref. 1. The examining means examines whether said recording medium is of a first type having a configuration enabling recorded data to be effectively read out by performing authentication processing or of a second type having no such configuration and enabling read out of the recorded data without authentication. *See*, for example, specification at page 31, line 24 - page 37, line 24 and Fig. 1, ref. 1. The examining means also examines whether said reproducing apparatus is of a first type for reproducing after the authentication processing or of a second type for reproducing without that processing. *See*, for example, specification at page 31, line 24 - page 37, line 24 and Fig. 1, ref. 1. The examining means further examines whether said recording apparatus is of a first type for recording after the authentication processing or of a second type for recording without that processing. *See*, for example, specification at page 31, line 24 - page 37, line 24 and Fig. 1, ref. 1.

Independent claim 26 is directed to a data distribution method. *See*, for example, specification at page 4, lines 14-17. The method includes examining usage space

information of content data distributed on a recording medium mounted in a reproducing

apparatus, a recording medium mounted in said reproducing apparatus, said

reproducing apparatus, a recording medium mounted in a recording apparatus, and said

recording apparatus. *See*, for example, specification at page 30, line 5 - page 31, line

19. The method includes controlling the transfer of said content data from said

recording medium mounted in said reproducing apparatus to said recording medium

mounted in said recording apparatus based on the result of said examining. *See*, for

example, specification at page 26, line 10 - page 30, line 2. The usage space

information indicates system information of said recording apparatus and said

reproducing apparatus, ownership right information of said content data, format

information of said content data, and distributing profit information obtained by the

distribution of said content data. *See*, for example, specification at page 31, line 20 -

page 39, line 15. The method examines whether said content data of a first type which

is distributed in an encrypted state or of a second type which is distributed in an

unencrypted state. *See*, for example, specification at page 31, line 24 - page 37, line

24. The method also examines whether said recording medium is of a first type having

a configuration enabling recorded data to be effectively read out by performing

authentication processing or of a second type having no such configuration and

enabling read out of the recorded data without authentication. *See*, for example,

specification at page 31, line 24 - page 37, line 24. The method also examines whether

said reproducing apparatus is of a first type for reproducing after the authentication

processing or of a second type for reproducing without that processing. *See*, for

example, specification at page 31, line 24 - page 37, line 24. The method further

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examines whether said recording apparatus is a of a first type for recording after the authentication processing or of a second type for recording without that processing. *See*, for example, specification at page 31, line 24 - page 37, line 24.

Independent claim 31 is directed to a data processing apparatus. *See*, for example, specification at page 4, lines 14-17. The apparatus includes a reproducing apparatus for reproducing content data distributed from a mounted recording medium. *See*, for example, specification at page 22, line 1 - page 24, line 13 and Fig. 1, ref. 400. The apparatus also includes an examining means for examining usage space information of the content data recorded on a recording medium mounted in said reproducing apparatus, a recording medium mounted in said reproducing apparatus, and said reproducing apparatus. *See*, for example, specification at page 30, line 5 - page 31, line 19 and Fig. 1, ref. 1. The structure corresponding to the examining means is EMD system 1. The apparatus further includes a controlling means for controlling the reproduction of the content data from said recording medium mounted in said reproducing apparatus based on results of said examination the result of said examination. *See*, for example, specification at page 26, line 10 - page 30, line 2 and Fig. 1, ref. 400. The structure corresponding to the controlling means is CPU 510. The usage space information indicates system information of said recording apparatus and said reproducing apparatus, ownership right information of said content data, format information of said content data, and distributing profit information obtained by the distribution of said content data. *See*, for example, specification at page 31, line 20 - page 39, line 15. The examining means examines whether said content data is to of a first type which is distributed in an encrypted state or of a second type which is

distributed in an unencrypted state. *See*, for example, specification at page 31, line 24 -

page 37, line 24 and Fig. 1, ref. 1. The examining means also examines whether said

recording medium is of a first type having a configuration enabling recorded data to be

effectively read out by performing authentication processing or of a second type having

no such configuration and enabling read out of the recorded data without authentication.

*See*, for example, specification at page 31, line 24 - page 37, line 24 and Fig. 1, ref. 1.

The examining means further examines whether said reproducing apparatus is of a first

type for reproducing after the authentication processing or a second type for

reproducing without that processing. *See*, for example, specification at page 31, line 24

- page 37, line 24 and Fig. 1, ref. 1.